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7 SUMOTEXT CORP.,  
8 Plaintiff,  
9 v.  
10 ZOOVE, INC., et al.,  
11 Defendants.

Case No. 16-cv-01370-BLF

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**ORDER DENYING SUMOTEXT  
CORPORATION'S ADMINISTRATIVE  
MOTION TO FILE DOCUMENTS  
UNDER SEAL**

18 [Re: ECF 160]

19 Plaintiff Sumotext Corporation has filed an administrative motion to seal Exhibit E to the  
20 Declaration of Julie D. Greathouse, filed in support of Sumotext's reply regarding its motion to  
21 amend its pleading. *See Admin. Motion, ECF 160.* Sumotext states that it does not agree that  
22 Exhibit E contains sealable material, but it has filed the administrative motion to seal because  
23 Exhibit E has been designated as confidential by Defendants.

24 “Historically, courts have recognized a ‘general right to inspect and copy public records  
25 and documents, including judicial records and documents.’” *Kamakana v. City and Cnty. of  
Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435  
U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are  
“more than tangentially related to the merits of a case” may be sealed only upon a showing of  
“compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,  
1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed  
upon a lesser showing of “good cause.” *Id.* at 1097.

26 In addition to satisfying the “compelling reasons” test, sealing motions filed in this district  
27 must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b). A party  
28 moving to seal a document in whole or in part must file a declaration establishing that the

United States District Court  
Northern District of California

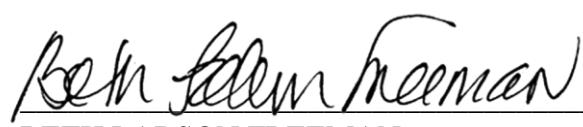
1 identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or  
2 protective order that allows a party to designate certain documents as confidential is not sufficient  
3 to establish that a document, or portions thereof, are sealable.” *Id.*

4 Where the moving party requests sealing of documents because they have been designated  
5 confidential by another party, the burden of establishing compelling reasons for sealing is placed  
6 on the designating party. Civ. L.R. 79-5(e). “Within 4 days of the filing of the Administrative  
7 Motion to File Under Seal, the Designating Party must file a declaration . . . establishing that all of  
8 the designated material is sealable.” Civ. L.R. 79-5(e)(1). “If the Designating Party does not file a  
9 responsive declaration . . . and the Administrative Motion to File Under Seal is denied, the  
10 Submitting Party may file the document in the public record no earlier than 4 days, and no later  
11 than 10 days, after the motion is denied.” Civ. L.R. 79-5(e)(2).

12 Because Exhibit E is submitted in connection with briefing on Sumotext’s motion for leave  
13 to amend its pleading, it is more than tangentially related to the merits of the case and therefore  
14 may be sealed only upon a showing of compelling reasons. No designating party has filed a  
15 declaration supporting the sealing of Exhibit E and the deadline to do so has elapsed.  
16 Accordingly, Sumotext’s administrative motion to seal is DENIED. Sumotext may file the  
17 document in the public record no earlier than four days, and no later than ten days, after the date of  
18 this order.

19 **IT IS SO ORDERED.**

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21 Dated: March 6, 2017



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23 BETH LABSON FREEMAN  
United States District Judge

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